

**CALENDAR ITEM
C66**

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06/28/16

S 34

PRC 4101.1
S. Kreutzburg

GENERAL LEASE – OTHER

APPLICANT:

Dennis Bruce Needleman, Trustee of the Dennis Bruce Needleman Living Trust
u/d/t 12/7/1999

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Huntington Harbour, adjacent to 16631 Carousel Lane,
city of Huntington Beach, Orange County.

AUTHORIZED USE:

Removal, replacement, and use and maintenance of an existing boat dock
and two access ramps; and use and maintenance of an existing
cantilevered deck with enclosure, extending no more than five feet
waterward of the bulkhead.

LEASE TERM:

10 years, beginning June 28, 2016.

CONSIDERATION:

\$3,627 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California
Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

Recreational boating is water-dependent and is generally consistent with
the common law public trust doctrine. The California Legislature has
identified private recreational boating facilities as an authorized use of

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public trust lands (Pub. Resources Code, § 6503.5). The subject facilities, consisting of a boat dock, access ramp and a cantilevered deck with enclosure, are privately owned and maintained and located within the Main Channel. The boat dock and access ramp facilitate recreational boating because they are used for the docking and mooring of recreational boats.

The Main Channel in Huntington Harbour was created in the early 1960s and the adjacent upland parcel is privately owned and developed with a residence. There is no public access at this upland property because the private upland property directly abuts the concrete bulkhead that defines the limits of the channel. The boat dock extends to the pierhead line that is 60 feet into the 400-foot-wide channel leaving the majority of the Main Channel available for navigation and public recreation.

Although an enclosed cantilevered deck is not a use associated with traditional public trust uses, it extends no more than five feet over the Main Channel and does not substantially interfere with the public right of navigation or access.

The proposed lease does not alienate the State's fee simple interest, is limited to a 10-year term, and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the Lessee may be required to remove all improvements from state land.

The proposed lease requires the Lessee to insure the lease premises, indemnify the State for any liability, and pay annual rent for the use of State land. Conversely, the resources, costs, time and uncertainty associated with seeking removal of these relatively small encroachments are significant. For all the reasons above, Commission staff believes the issuance of this lease will not substantially interfere with public trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On April 20, 2000, the Commission authorized a 10-year Recreational Pier Lease to The Mark McGwire Revocable Trust Dated December 13, 1994. That lease expired on March 31, 2010. On May 18, 2006, ownership of the upland parcel adjacent to the lease premises was transferred to a new

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owner. The Commission received no communication regarding the transfer from this landowner.

3. On January 25, 2013, ownership of the upland parcel adjacent to the lease premises was transferred to Dennis Bruce Needleman, Trustee of the Dennis Bruce Needleman Living Trust u/d/t 12/7/1999. The Applicant is now applying for a General Lease – Other.
4. Staff recommends authorization for the removal, replacement, and use and maintenance of the existing boat dock and two existing access ramps. Staff also recommends authorization for the use and maintenance of the existing cantilevered deck with enclosure.
5. This activity is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
6. **Existing Cantilevered Deck with Enclosure:** The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Replacement of Boat Dock and Two Access Ramps: The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; California Code of Regulations, Title 14, section 15302.

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

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EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Cantilevered Deck with Enclosure: Find that this activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Replacement of Boat Dock and Two Access Ramps: Find that this activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 2, Replacement or Reconstruction; California Code of Regulations, Title 14, section 15302.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the use of a boat dock and two access ramps is consistent with the common law Public Trust Doctrine and is in the best interests of the state.

Find that the existing and continuing use of the enclosed cantilevered deck is not generally consistent with the public trust doctrine, but that the current use, on balance, will not substantially impair the public rights to navigation and fishing or substantially interfere with public trust needs and values at this location and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Other, to Dennis Bruce Needleman, Trustee of the Dennis Bruce Needleman Living Trust u/d/t 12/7/1999; beginning June 28, 2016, for a term of 10 years, for the removal, replacement, and use and maintenance of an existing boat dock

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and two access ramps, and for the use and maintenance of an existing cantilevered deck with enclosure extending no more than five feet waterward of the bulkhead, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration in the amount of \$3,627 per year with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4101.1

LAND DESCRIPTION

A parcel of submerged land in Huntington Harbour, in the City of Huntington Beach, Orange County, California, described as follows:

Beginning at the most westerly corner of Lot 139, as said lot is shown and so designated on that certain map of Tract No. 5481 filed in Book 215, Pages 11 through 22 of Miscellaneous Maps, Official Records of said County; thence westerly along the westerly prolongation of the northerly line of said lot 60.00 feet, more or less to the pierhead line as said pierhead line described in Resolution No. 5631, passed and adopted January 21, 1986 by the City Council of said City; thence southerly 50.00 feet along said pierhead line to the westerly prolongation of the southerly line of said lot; thence easterly 60.00 feet more or less along said westerly prolongation to the most southerly corner of said lot; thence northerly along the westerly line of said lot to the to the POINT OF BEGINNING.

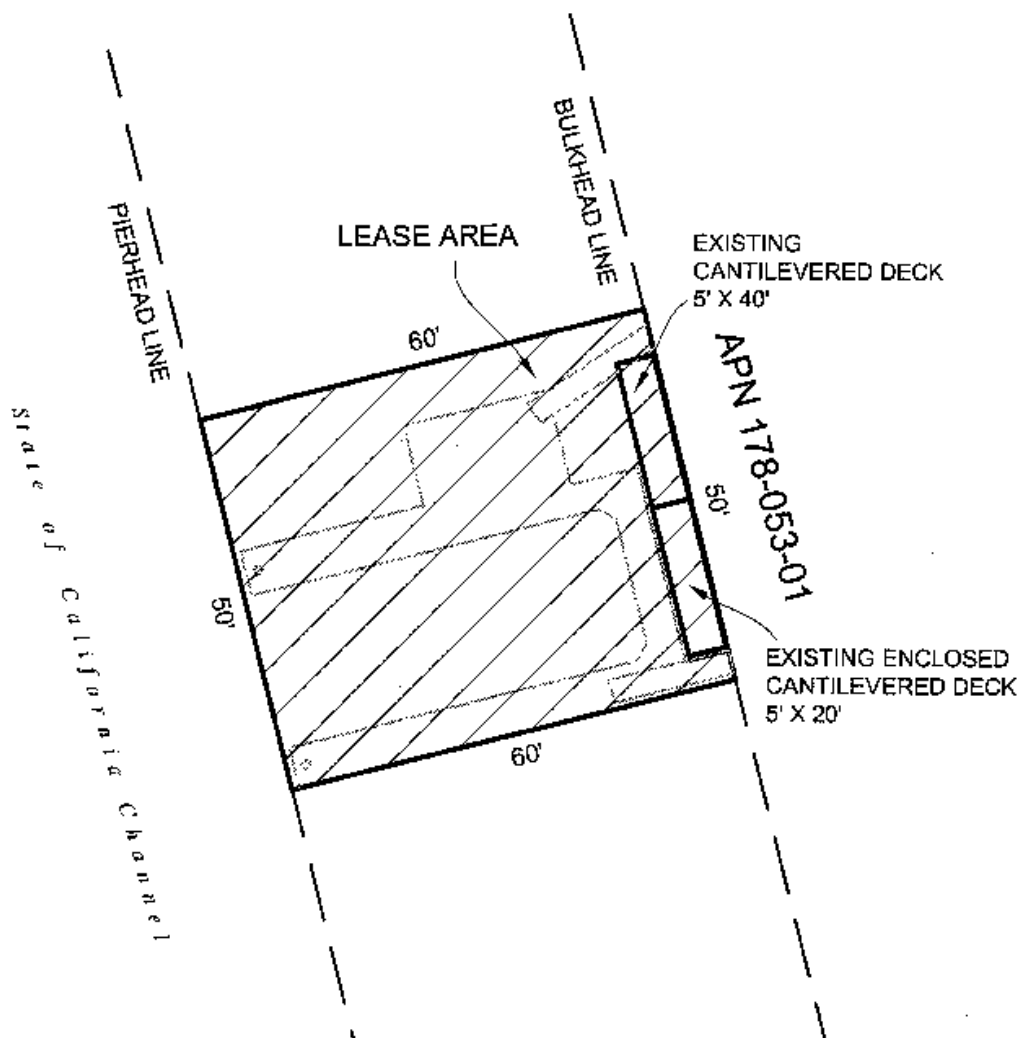
END OF DESCRIPTION

Prepared April 5, 2016 by the California State Lands Commission Boundary Unit



NO SCALE

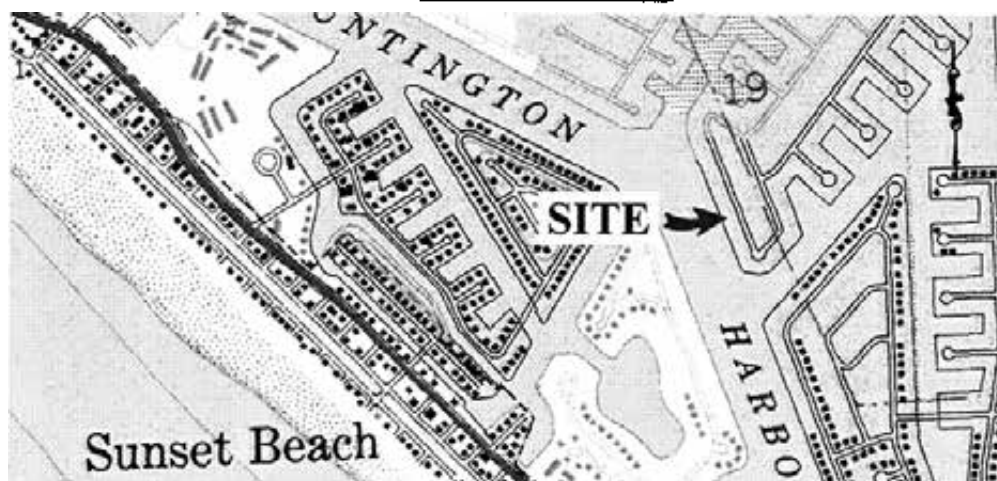
SITE



16631 CAROUSEL LANE, HUNTINGTON BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 4101.1
DENNIS NEEDLEMAN TRUST
APN 178-053-01
GENERAL LEASE -
OTHER
ORANGE COUNTY



MJJ 5/02/2016